

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT  
219 South Dearborn Street  
Chicago, Illinois 60604

September 30, 2021

Chief Judge Diane S. Sykes

No. 07-21-90056

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainant filed a misconduct complaint alleging that in 2018 he learned that a judge improperly attempted to influence the three-judge panel assigned to hear his 1992 appeal. Although the subject judge was not assigned to the case, the complainant alleges that the judge knew him from prior litigation, did not like him, and therefore initiated improper ex parte communication with one of the judges on the panel and asked him to “corruptly fix a case” against the complainant. The complainant acknowledges that he does not know if the other two judges on the panel went along with the alleged “case-fixing scheme.”

Almost 30 years have passed since the conduct alleged in the complaint. Although no statute of limitations bars the filing of a judicial-misconduct complaint, “[i]f the passage of time has made an accurate and fair investigation of the complaint impractical, the complaint must be dismissed.” RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 9; *see also id.* R. 11 (stating in the commentary that dismissal is appropriate “when a complaint is filed so long after an alleged event that memory loss, death, or changes to unknown residences prevent a proper investigation”). Here, the delay in filing this complaint renders proper investigation impossible—the alleged events occurred almost 30 years ago. Furthermore, the complainant says he learned of the alleged events in 2018, but he waited three years to file this complaint and did not identify anything that would have precluded him from filing it immediately after he learned of the alleged misconduct. This too impedes a full, fair, and accurate investigation and prejudices the subject judge’s ability to rebut the allegations in the complaint. In short, the extreme passage of time, accompanied by an unreasonable delay in filing the misconduct complaint, justifies dismissal. 28 U.S.C. § 352(b)(1)(A)(iii); *see In re Complaint of Jud. Misconduct No. 09-01*, 591 F.3d 638, 643–45 (U.S. Jud. Conf. 2009)

(concluding that a seven-year wait to file a judicial-misconduct complaint amounted to an unreasonable delay).

For the foregoing reasons, the complaint is dismissed pursuant to § 352(b)(1)(A)(iii). The complainant may petition the Judicial Council of the Seventh Circuit for review of this order in accordance with Rule 18(b) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. 28 U.S.C. § 352(c); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(g)(3). A petition for review must be filed in the clerk's office of the United States Court of Appeals for the Seventh Circuit not later than 42 days of the date of this order.